

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KIRT BOOKER,

Plaintiff,

Civil Action No. 5:12-cv-14757

v.

HON. JOHN CORBETT O'MEARA

FIRST NAME UNKNOWN DELL,

Defendants,

_____ /

ORDER OF SUMMARY DISMISSAL

On October 26, 2012, Plaintiff Kirt Booker, a state inmate incarcerated by the Michigan Department of Corrections at the St. Louis Correctional Facility in St. Louis, Michigan, filed the pending civil rights complaint with United States District Court for the Western District of Michigan, in which he named the St. Louis Correctional Facility and Corrections Officer (first name unknown) Dell as Defendants. In his complaint, he alleged that he gave Defendant Dell two songs to sell for him and claimed that Dell was paid \$450,000 for the songs, all of which Dell kept as his own property. Because Plaintiff's allegations against Defendants arose in St. Louis County, the Western District transferred the case to this District. The case was then assigned to the undersigned.

This Court has granted Plaintiff's application for leave to proceed *in forma pauperis* in this case. *See* 28 U.S.C. § 1915(a)(1) (1996). However, for the reasons stated, the Court dismisses the complaint pursuant to 28 U.S.C. § 1915(g).

Plaintiff states the following in his complaint:

To the Clerk, US District Court

I give CO Dell some songs to sell for us. He sell the two songs "I will never call you a bitch" and a song called "Bitches." He gets \$450,000 and give me nothing. He works here at St. Louis and he said that I owe him money and that makes me so mad.

I want to sue him and the prison he works for.
Thank you for your time

Plaintiff does not appear to be challenging the conditions of confinement or his state-criminal convictions. *See Preiser v. Rodriguez*, 411 U.S. 475, 499 (1973). Rather, Plaintiff attaches a "prisoner kite," alleging the above. The Court finds that nothing in the body of the complaint demonstrates that Plaintiff is complaining about the conditions of his confinement in the prison system. Thus, the Court concludes that he has failed to state a claim and his complaint must be dismissed pursuant to section 1915(g).

Given the Court's decision, Plaintiff's application for appointment of counsel is denied as moot.

SO ORDERED.

s/John Corbett O'Meara
United States District Judge

Date: January 9, 2013

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, January 9, 2013, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager